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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,044	06/29/2006	James Wilfred Forbes	200405.00020	5664
21324 7590 12/19/2008 HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076				
EXAMINER MC'CARRY JR, ROBERT J				
ART UNIT 3617		PAPER NUMBER		
NOTIFICATION DATE 12/19/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com  
akron-docket@hotmail.com

### Office Action Summary

**Application No.**

10/564,044

**Applicant(s)**

FORBES ET AL.

**Examiner**

ROBERT J. MCCARRY JR

**Art Unit**

3617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 71-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 71-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 72-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 72 recites "The subject matter of claim 71 wherein said at least one self-steering apparatus fitting is the bearing adapter of part (a) of claim 71." Claim 71 recites a self-steering apparatus with a bearing adapter in part (a) and a pedestal seat in part (b). Claim 72 states the "subject matter of claim 71", which the Examiner understands as all of the features of claim 71. Claim 72 goes on to recite that the "fitting is the bearing adapter of part (a) of claim 71, which has been interpreted as all of the features of part (a) of claim 71 which has already been recited in the beginning of the claim. Therefore claim 72 reads as a redundant claim since all of the limitations have been previously set forth in claim 71. Claim 72, therefore does not further limit the invention.

Claim 74 recites "The subject matter of claim 71 wherein said at least one self-steering apparatus fitting is the pedestal seat of part (b) of claim 71." Claim 71 recites a self-steering apparatus with a bearing adapter in part (a) and a pedestal seat in part (b). Claim 74 states the "subject matter of claim 71", which the Examiner understands as all of the features of claim 71. Claim 74 goes on to recite that the "fitting is the pedestal seat of part (b) of claim 71, which has been interpreted as all of the features of part (b) of claim 71 which has already been recited in the

beginning of the claim. Therefore claim 74 reads as a redundant claim since all of the limitations have been previously set forth in claim 71. Claim 74, therefore does not further limit the invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 71-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over List (US 4,483,253).

List discloses a self steering, flexible railway car truck comprised of a pair of sideframe, each sideframe having pedestal jaws for receiving a roller bearing in the pedestal jaw. An elastomeric pad 14 serves as a pedestal seat for the bearing adapter 6 and the roller bearings. The pedestal jaw allows for the pedestal seat 14 and bearing adapter 6 to be received in the jaw with a fore and aft clearance to allow for relative yawing motion of the truck relative to the self steering of the assembly. A yielding pad is provided between the bearing and the base of each jaw assembly and a transverse plank is installed between the sideframes to restrain fore and aft movement of the sideframe and is torsionally flexible to permit motion of the sideframes to cooperate with the self steering of the truck. The self steering of the truck is highlighted in claim 1 of the reference.

List discloses the railway truck construction as described above. However, List does not disclose the pad 14 to have an actuate surface. The bearing adapter 6 that is mounted below the

pad 14 does have an actuate surface with a flat top and front and rear surfaces that face downward from the top. It would have been obvious to one of ordinary skill in the art to have tried to extend the pad along the length of the adapter 6 thereby giving the pad an actuate surface. This would also give the expected result of providing more support to the adapter and allow more flexibility in the use of the pad 14 by giving in more surface contact with the other components of the bearing assembly.

#### ***Response to Arguments***

Applicant's arguments, see pages 9 and 10, filed July 1, 2008, with respect to the rejection(s) of claim(s) 71-94 under 35 USC 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC 103.

Regarding the rejections under 35 USC 112 to claims 72 and 74. The amendments to the claims do not overcome the rejection as the claims are interpreted as redundant and do not further limit the features of the claims as stated above.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. MCCARRY JR whose telephone number is (571)272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/  
Supervisory Patent Examiner, Art Unit 3617

/R. J. McCarry Jr./  
Examiner  
Art Unit 3617

RJM  
December 10, 2008